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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-747

UNITED STATES OF AMERICA

v.

CHARLES TRAVIS AUSTIN,
Petitioner.

UNITED STATES OF AMERICA

v.

CHARLES TRAVIS AUSTIN,
Petitioner.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Sixth Circuit

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Constitutional Provisions

U.S. Const. Amend. V

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any

person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation 3, 6, 14

U.S. Const. Amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law 3, 11

U.S. Const. Amend. XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws 11

Statutes

18 U.S.C., Sec. 201(b)

(b) Whoever, directly or indirectly, corruptly give, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(1) to influence any official act; or

(2) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of his lawful duty 12

18 U.S.C., Sec. 201(c)

(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

(1) being influenced in his performance of any official act; or

(2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) being induced to do or omit to do any act in violation of his official duty 3, 12

18 U.S.C., Sec. 201(f)

(f) Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official 12

18 U.S.C., Sec. 201(g)

(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him . . 3, 12

18 U.S.C., Sec. 3238

The trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district in which the offender, or any one of two or more joint offenders, is arrested or is first brought; but if such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia 3, 7, 8

28 U.S.C., Sec. 1732

Record made in regular course of business; photographic copies

(a) In any court of the United States and in any court established by Act of Congress, any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of such act, transaction, occurrence, or event, if made in regular course of any business, and if it was the regular course of such business to make such memorandum or record at the time of such act,

transaction, occurrence, or event or within a reasonable time thereafter.

All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

The term "business," as used in this section, includes business, profession, occupation, and calling of every kind.

(b) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, micro-film, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original. This subsection shall not be construed to exclude from evidence

any document or copy thereof which is otherwise admissible under the rules of evidence 3, 11, 12

Fed. R. Crim. P. 52(a)(b) 10

Other Source

McCormick on Evidence, Sec. 10, p. 20 (2d ed. 1972) 10

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PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Sixth Circuit

Petitioner, Charles Travis Austin, prays that a Writ of Certiorari issue to review the Orders of the United States Court of Appeals for the Sixth Circuit entered in the above cases.[1]

[1] This Petition concerns two related cases which were treated together in the Court of Appeals, Sixth Circuit, under Docket Nos. 73-1085 and 73-1086. The District Court ordered the two cases tried together. In No. 73-1085, the Indictment contained 7 counts. On motion of defendant, Counts 5 and 6 were dismissed for lack of competent evidence to sustain the respective counts. The latter indictment contained one count that specifically corrected the defective seventh count in the prior indictment charging a violation of Title 18 USC, Sec. 201(c)(3), that, theretofore had been dismissed.

OPINIONS BELOW

Order on Defendant's Motion for Judgment of Acquittal or for a New Trial entered April 19, 1972, United States District Court, Western District of Tennessee, Eastern Division (App. A, infra).

Judgment and Commitment filed August 24, 1972, in the United States District Court, Western District of Tennessee, Eastern Division (App. B, infra). Judgment and Commitment filed August 24, 1972, in the United States District Court, Western District of Tennessee, Eastern Division (App. C, infra).

The Judgment of Conviction was summarily affirmed by the Court of Appeals for the Sixth Circuit by Order dated June 27, 1973, without opinion. Said Order of the Court of Appeals (App. D, infra) is not reported.

Defendant-Appellant, in the Court of Appeals, promptly filed a Petition for Rehearing In Banc and the Court of Appeals for the Sixth Circuit, by Order dated October 11, 1973, denied the Petition for Rehearing, without opinion. The Order of the Court of Appeals (App. E, infra) denying the Petition for a Rehearing In Banc is not reported.

JURISDICTION

The jurisdiction of this Court is invoked under Title 28, USC, Sec. 1254(1).

QUESTIONS PRESENTED

1. Can a Grand Jury return a valid indictment based entirely on hearsay testimony and the statements, observations and the most persuasive manifestations of an Assistant United States Attorney?

2. Was Petitioner's rights violated by conducting the trial in the Western District of Tennessee, in violation of 18 USC, Sec. 3238, by a Judge who was without jurisdiction, in violation of the Sixth Amendment of the United States Constitution, when the proof clearly established the fact that Petitioner was first brought into the United States via the Northern District of California, to be tried for a crime alleged to have been committed in the Republic of the Philippines and at Tokyo, Japan?

3. Did the use of purely hearsay testimony, highly prejudicial, inflammatory and repetitious, presented over a period of several days by the prosecution, destroy the integrity of the trial, in violations of Petitioner's rights as provided by the Fifth and Sixth Amendments of the United States Constitution?

4. Whether Exhibit 33 should have been excluded under 18 USC, Sec. 1732, as not meeting the regular course of business requirement?

5. Did the District Court permit plain error in permitting Petitioner to be convicted on both Count 1 and Count 2 of the indictment in that both Counts charge the same transaction and amounted to multiplicity of offenses and the pyramiding of sentences, which practice has been uniformly declared unconstitutional?

STATUTES INVOLVED

The relevant Constitutional Provisions and Statutes involved are set forth in the Table of Contents, supra.

STATEMENT

Charles Travis Austin was charged with violation of 18 USC, Sec. 201(c)(2) and (g) in an indictment alleging that he corruptly and illicitly solicited bribes while performing official

functions as Recreation Officer at the United States Naval Station, Sangley Point, Republic of the Philippines during 1969. Petitioner returned from his duty station in Japan to Travis Air Force Base in California where he was thoroughly searched by customs officials. Then, pursuant to his orders, he was allowed to continue to the Western District of Tennessee. He was indicted on July 7, 1970, by a grand jury. The indictment was based solely on testimony by two investigators who had no direct connection with the accused or the events in question.

At trial, the prosecution depended largely on the testimony of Hisashi Suzuki whose Kyosho Corporation, Santa Ana, California, made a number of sales to the Recreation Division at Sangley Point. Suzuki at first testified to a number of events occurring on October 6, 1969, but later admitted that he was in the United States on that date. Petitioner moved that this testimony be stricken or that a mistrial be declared. These motions were overruled. Further objections were made to admitting records of a foreign corporation located in Tokyo, Japan, as being outside the business records exception to the hearsay requirement. These, too, were overruled.

Petitioner was convicted on five counts. He then moved for a judgment of acquittal notwithstanding the verdict and for a new trial. These motions were then overruled and Petitioner appealed.

In the United States Court of Appeals for the Sixth Circuit the judgment of the lower court was summarily affirmed by Order and defendant-appellant's Petition for a Rehearing In Banc was summarily denied. In neither instant did the Court of Appeals furnish an opinion of a trial involving numerous determinative questions of law and fact that consumed more than eight days of actual trial.

REASONS FOR GRANTING WRIT

1. This case presents the Court with the question whether hearsay testimony can be used before the grand jury in a manner so prejudicial to a defendant as to require reversal.

Petitioner has not contended that no hearsay is permissible before a grand jury, for it is settled otherwise. Petitioner argues only that the grand jury must not be

> misled into thinking it is getting eye-witness testimony from the agent whereas it is actually being given an account whose hearsay nature is concealed.

United States v. Leibowitz, 420 F.2d 39, 42 (2d Cir. 1969).

Petitioner contends that the view announced by the Second Circuit in **United States v. Estepa,** 471 F.2d 1132, 1137 (2d Cir. 1972), has been consistently cited with approval:

> We have been willing to allow ample, many doubtless think too ample, latitude in the needless use of hearsay, subject to only two provisos—that the prosecutor does not deceive grand jurors as to "the shoddy merchandise they are getting so they can seek something better if they wish," United States v. Payton, *supra*, 363 F.2d at 1000 (dissenting opinion), or that the case does not involve "a high probability that with eyewitness rather than hearsay testimony the grand jury would not have indicted." United States v. Leibowitz, *supra*, 420 F.2d at 42; United States v. Arcuri, 282 F.Supp. 347, 350 (E.D.N.Y.), Aff'd, 405 F.2d 691 (2nd Cir. 1968).

Here, as the court found in **Estepa**, *supra*, it may be that the grand jurors were misled into thinking that they were receiving other than hearsay evidence, although only federal agents, and no one with first-hand knowledge, testified before

the grand jury. This Court should review at this time the questions whether such deception may have occurred in the present case and whether such deception is ground for reversal.

Petitioner asserts that the grand jury indictment on which his trial was based was improper and amounted to denial of "due process of law" demanded by the Fifth Amendment to the United States Constitution. This Court should require the grand jury indictments to be based on the production of the most satisfactory and convincing evidence which the case permits. To hold otherwise would permit the excessive use of hearsay in the presentation of cases to the grand jury, which would tend to destroy the historical function of grand juries in the protection of the innocent from unwarranted prosecution.

Without the production of some substantive evidence or proof before the grand jury, the returning of a true bill of indictment can lead to such a practice and become a form of harrassment which may violate the principle of fundamental "due process" and "equal protection of the law" as announced by the Courts.

The historical function of grand juries and the reason for their inclusion in the federal criminal process has been not only to serve the state by issuing criminal indictments after due investigation, but also to protect the accused from indictments which are not based on reasonable grounds. The Supreme Court has recently spoken of "the necessity to society of an independent and informed grand jury," and has added:

> Historically, this body has been regarded as a primary security to the innocent against hasty, malicious and oppressive prosecution; it serves an invaluable function in our society of standing between the accuser and the accused, whether the latter be an individual, minority group, or other, to determine whether a charge is founded upon

> reason or was dictated by an intimidating power or by malice and personal ill will.

Wood v. Georgia, 370 U.S. 375, 390 (1962).

In **Costello v. United States,** 350 U.S. 359 (1956), the Supreme Court emphasized the indictment function of the grand jury.

While **Costello** was an atempt to prevent spurious preliminary hearings on the merits, the reluctance of courts to require any sufficiency of evidence at all before the grand jury can issue an indictment has led to prosecutorial abuse of the grand jury function. **As in the case of the present accused,** prosecutors have demanded and received indictments based on the most spurious hearsay testimony and in some cases on evidence which would not even be admissible at trial. This practice can only subvert the historical function of grand juries and nullify the basic protections of due process afforded by the Fifth Amendment to the United States Constitution.

More recently, in **United States v. Estepa,** *supra*, the Second Circuit reversed a conviction based on a grand jury indictment in which only hearsay testimony was presented. Such an indictment, the court held, "constitutes a fraud on the grand jury and makes a mockery of the Fifth Amendment's grand jury indictment provision."

2. The Court is here presented with the question of the proper interpretation to be given 18 USC, Sec. 3238, regarding venue, which reads in relevant part:

> The trial of all offenses begun or committed . . . out of the jurisdiction of any particular state or district, shall be in the district in which the offender . . . is arrested or first brought.

Petitioner continues to assert that this statute, properly construed requires that he be tried in California.

In the present case, Petitioner was required to notify investigators prior to his departure from the Philippines; military personnel and a military vehicle were used to transport him to him to his departure area; the particular flight and destination were assigned to him by the authorities; he was escorted by military personnel to his departure area and was required to give up his own military documentation; he was required to stand and identify himself to military police who were present on the plane for the sole purpose of insuring that the accused was in fact present on the particular flight; he was landed in a restricted area and subsequently was subjected to a special custodial interview and search by a special agent, Naval Investigative Service, and customs officials; and finally, after his freedom had been thus restricted by this custodial detention, restraint, and investigation, he was permitted to travel to his home, where he was later arrested and again taken into custody.

Petitioner contends that on these facts there existed the type of restraint on liberty contemplated by 18 USC 3238, and that a proper interpretation of the statute, similar to that applied in **United States v. Erdos,** 474 F.2d 157, requires a finding that "arrest" took place for venue purposes in California.

If venue was improper, then the conviction must be reversed. **United States v. Jones,** 174 F.2d 746 (7th Cir. 1949); **United States v. Provoo,** 215 F.2d 531 (2d Cir. 1954). The Court should consider at this time whether a proper construction of 18 USC Sec. 3238 requires a holding that venue in this case was not properly laid in the Western District of Tennessee.

3. The present case presents this Court with criminal conviction based upon inadmissible testimony which was highly prejudicial to Petitioner. The case for the United States was based upon accounts by its witness, Hisashi Suzuki, of alleged criminal acts occurring on a certain date in Tokyo, Japan. When the witness later testified that he had been in the United States rather than in Tokyo on the date in question, it became evident

that his previous testimony had been inadmissible because it was hearsay and/or not based upon first-hand knowledge. Yet the District Court refused to exclude said testimony or declare a mistrial.

Suzuki testified at length to transactions between the Recreation Division, Sangley Point, and the Kyosho Corporation, Tokyo, Japan, and more specifically, to occurrences at the office of the Kyosho Corporation, Tokyo, Japan, on October 6, 1969.

Thus Exhibit 18, which was introduced by the prosecution as a receipt given by petitioner for the kickbacks on October 6, could not have been given by Mr. Suzuki personally. Yet Suzuki testified as to occurrences in Tokyo on October 6.

In **Hinton v. United States,** 91 U.S. App. D.C. 13, 196 F. 2d 605 (1952), the court of appeals reversed a conviction for taking indecent liberties with a young girl. In that case practically the only testimony tending to prove the crime was the testimony of the girl. That testimony contradicted earlier testimony in several respects. In reversing the conviction, the court said:

> It is of course true that self-contradiction by the government's sole eyewitness is not always fatal to the government's case, for circumstances may prove a defendant's guilt beyond a reasonable doubt. But there was no such circumstances here.

196 F.2d at 606.

It is not unfair to say that the testimony of Suzuki is analogous to that of the eyewitness in **Hinton.** Without Suzuki's testimony there is almost no evidence against Petitioner. The fact of Suzuki's self-contradiction, together with the fact that he was discredited as to his personal and business affairs on cross-

examination, renders him unworthy of belief. There are no other circumstances which could prove Petitioner's guilt beyond a reasonable doubt. Thus, this case falls squarely within the **Hinton** rule.

The decision to allow this evidence, without which the Government's case must fail, was clearly erroneous and should be reviewed at this time.

> The Common Law system of proof is exacting in its insistence upon the most reliable sources of information . . . One of the earliest and most pervasive manifestations of this attitude is the rule requiring that a witness who testifies to a fact which can be perceived by the senses must have had an opportunity to observe, and must have actually observed the fact.

McCormick, Evidence, Sec. 10, p. 20 (2d ed. 1972).

The rule in the Sixth Circuit is no less strict, especially in criminal cases.

> "Where plain error has been committed affecting substantial rights of the accused in a criminal case . . ." [and] inasmuch as such . . . [hearsay] evidence was the only evidence sufficient to make a case of [his] guilt, we do not consider its admission as harmless error contemplated by Rule 52(a) of the Rules of Criminal Procedure . . . We are constrained to take notice of it, under Rule 52(b).
>
> The additional evidence against [him] might well arouse suspicion and support a speculative conclusion of his guilt . . . Such speculation, however, is not sufficient to sustain a judgment of conviction.

United States v. Dunn, 299 F.2d 548, 554-55 (6th Cir. 1962) (citations omitted).

It is no justification to say that the witness' command of the language was limited or that his syntax confused himself with

his corporation. Suzuki testified to alleged criminal acts which he could not have witnessed. A conviction based on improper, non-first-hand testimony cannot stand. The Court should review this case at the present time to determine whether the Suzuki testimony was admissible.

However, a reversal in this case need not depend on this ground alone. There are serious constitutional, as well as evidentiary objections to Suzuki's testimony. That testimony, which was clearly hearsay as to the events of October 6, violated Petitioner's rights under the Sixth and Fourteenth Amendments relating to the right to confrontation and cross-examination of adverse witnesses. Evidence was brought against Petitioner by a witness who had no personal knowledge of the events in question. Petitioner had no opportunity to confront or cross-examine witnesses who were the source of knowledge as to the events of October 6. The federal courts, in a series of opinions, have moved to protect this crucial right.

4. The present case squarely presents the Court with the question whether the Federal Business Records Act, 28 USC, Sec. 1732, permits the admission in a criminal trial of a ledger sheet of a corporation not involved in the case, seemingly prepared only for use in court, and not made in the regular course of business.

Petitioner was indicted for and convicted of crimes involving a **California** corporation. Government Exhibit 33 purporting to list allegedly criminal transactions, was introduced in connection with the testimony of the witness Suzuki, and purported to be the record of a different, **Tokyo, Japan,** corporation. It further appeared that this exhibit had been prepared not for business use, but only for use at the trial of this case. Such a document does not meet the requirements of trustworthiness imposed by the Act as prerequisites to breach of the hearsay rule.

It is clear, however, that the first prerequisite, which must be established by the proponents, is that the record was made in the ordinary course of business. **Bisno v. United States,** 299 F.2d 711 (9th Cir. 1961); **Hagans v. Elberman & Bucknall S.S. Co., Ltd.,** 318 F.2d 563 (3d Cir. 1963).

Moreover, it is uniformly held that a document, in order to be admissible, must not have been prepared primarily for use in court. **Palmer v. Hoffman,** 318 U.S. 109, 114 (1943); **United States v. Plisco,** 192 F.Supp. 337 (D. D.C. 1961); **United States v. Johns-Manville Corp.,** 231 F. Supp. 690 (E.D. Pa. 1963). Such records, not having been prepared to be relied upon in the regular conduct of business, are not considered sufficiently trustworthy for use in court.

If the document was not admissible under 28 USC, Sec. 1732, it should not have been permitted in evidence. The Court should review at this time the question whether Sec. 1732 permits the admission of such a document.

5. If this Court takes into account the irrefutable logic of **United States v. Umans,** 368 F.2d 725, 729-30 (2d Cir. 1966), **cert. granted,** 386 U.S. 940, **cert. dismissed as improvidently granted,** 389 U.S. 80, the Court would conclude that Petitioner could not be convicted of violating both 18 USC, Sec. 201(c)(2) and 18 USC, Sec. 201(g) for the same act.

The **Umans** case held that 18 USC, Sec. 201(f) was a lesser included offense of Sec. 201(b), and that concurrent convictions were improper as not in accord with Congressional intent. It will be seen upon examination that Sec. 201(g) and Sec. 201(c), under both of which Petitioner was convicted, are exact reciprocals of Sec. 201(f) and Sec. 201(b), the former sections going to solicitation and receipt, the latter to offering and giving of money. The United States so conceded. Thus, if Sec. 201(f) is included in Sec. 201(b), it must be that Sec. 201(g) is included in Sec. 201(c). **Umans,** therefore, requires **at least** that the sentence as to Sec. 201(g) be vacated in this case.

Moreover, Petitioner continues to assert that vacation of sentence is not adequate, but that the present case is controlled by **Milanovich v. United States,** 365 U.S. 551 (1961). Even if the witness Suzuki's testimony and Exhibit 33 had been properly admitted, still, after **Umans,** there would be evidence of only one crime.

> The judge should have instructed the jury that a guilty verdict could be returned upon either count but not both . . . [S]ince it is now impossible to say what verdict would have been returned by a jury so instructed, and thus impossible to know that sentence would have been imposed, a new trial is in order.

Milanovich v. United States, *supra,* 365 U.S. at 554-55.

Whether **Milanovich** controls and requires a new trial on the present facts is a significant question. The case of **United States v. Cohen,** 387 F.2d 803 (2d Cir. 1967), **cert. denied,** 390 U.S. 996, clearly did not vitiate **Umans,** and is significantly distinguished from the present case by the fact that the defendant there had received the "alternative" charge to which Petitioner contends he was entitled.

Petitioner, therefore, contends that this Court should review at this time the question whether **Milanovich** and/or **Umans** apply in this case, and whether jurisdiction should be noted.

CONCLUSION

The questions presented by this case are of great and recurring significance in the administration of criminal justice. The questions of jurisdiction, due process, the right of Petitioner to a fair and impartial trial upon competent evidence, the irresponsibility of the prosecution, the Government, by introducing the rankest type of hearsay evidence, oral and documentary,

presents resolutions that this Court should determine if we are to expect the public to rely upon our judicial processes.

The failure to observe fundamental fairness essential to the very concept of justice in order to secure Petitioner from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice is in contravention of the due process principle.

Amendment 5, U. S. Constitution;

Simons v. United States, 119 F.2d 539 (cert. denied).

Concerning the method and means of the prosecution in the trial of this case in the District Court, I am reminded of a statement Judge Ely made in his concurring opinion regarding the fair administration of criminal justice in the case of **United States v. Thoresen,** 428 F.2d 654 (9th Cir.), wherein this distinguished jurist said:

> "While I concur in the majority's opinion, I must record my concern over the prosecution's failure to allow reporting and transcription of the grand jury's proceedings. Misgivings arise because the prosecution, by its deliberate conduct, established a basis for suspicion that it demeaned itself by engaging in a 'cat and mouse game' wherein grave personal rights were at stake. * * *"

The effect of the District Court's decisions, the Appellate Court's summary review on the various divisions of responsibility charged with the duty of fairly and impartially administering criminal justice makes this case peculiarly appropriate for the exercise of this Court's discretionary jurisdiction to protect the rights of Petitioner. In so doing, this Court will be curing a malignancy in the judicial processes by taking corrective measures to prevent such abuse and, in so doing, insure respect for our judicial system and the preservation of our democratic processes.

For the reasons set forth above, it is respectfully submitted that this Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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November 7, 1973.